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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,200	11/16/2001	Samuel Cavallaro	2000P09062US01	3398
7590 12/10/2007 Jack J. Schwartz & Associates 1350 Broadway Suite 1507 New York, NY 10018-7702			EXAMINER VO, LILIAN	
			ART UNIT 2195	PAPER NUMBER
			MAIL DATE 12/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/991,200

Applicant(s)

CAVALLARO ET AL.

Examiner

Lilian Vo

Art Unit

2195

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1 – 8 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 4 and 7 – 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chritini et al. "Practical real time computing system for biomedical experiment interface" (hereinafter Chritini).

4. Regarding **claim 1**, Christini discloses a workstation, comprising;
a display device (figs. 2: monitor);
a processor, coupled to the display device (fig. 2, page 182 left column last paragraph – right column first paragraph), executing:
a general purpose operating system, controlling execution of a selected one of a plurality of non-real-time application programs for displaying images representing non-real-time data on a display device (fig. 2, page 181 right column paragraphs 2 and 5); and

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a real-time kernel, controlling execution of a process for displaying images representing real-time data on the display device concurrently with the display of the non-real-time data (fig. 2, page 181 right column paragraph 2);

wherein the general purpose operating system and the real-time kernel are both arranged to executed as processes on the processor using a common operating system kernel (page 181 right column paragraphs 2 and 5); and

a circuitry, responsive to user input, for selecting the non-real-time display program from among a plurality of available non-real-time display programs (page 181 right column paragraphs 2 and 5, page 185 left column paragraph 2, fig. 2 - 3).

Chritini did not specifically disclose a general purpose operating system. However she discloses RT linux OS that runs two processes the real time process and the NRT process which can be run concurrently from within the standard multitasking linux to accomplish task such as data storage, data display, gui and network access (page 181 right column paragraphs 2 and 5). It would have been obvious for one of an ordinary skill in the art at the time the invention was made to associate the NRT process with the general purpose OS as claimed because it is capable of perform multitasking equally as well.

5. Regarding **claim 2**, Chritini discloses the general purpose operating system executes simultaneous with and independent from the real-time kernel (fig. 2, page 181 right column paragraphs 2 and 5).

6. Regarding **claim 3**, Chritini discloses a storage device, couple to the processor, wherein the plurality of non-real-time application programs are stored on the storage device and the general purpose operating system selects one of the stored plurality of non-real-time application programs that responsive to user input (fig. 2, page 181 right column paragraph 5).

7. Regarding **claim 4**, Chritini discloses a storage device stores code and data presenting the non-real-time application programs and the processor retrieves the stored code and data representing the selected non-real-time application and controls the execution of the retrieved code and data (fig. 2, page 181 right column paragraph 5, page 185 right column paragraph 2).

8. Regarding **claim 7**, Chritini discloses the real-time data is physiological data (page 182 right column paragraph 2).

9. Regarding **claim 8**, Chritini discloses the displayed image concurrently displays both non-real time and real time data (fig. 2 – 3, page 185 left column paragraph 2).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chritini et al. "Practical real time computing system for biomedical experiment interface" in view of applicant's admitted prior art (hereinafter AAPA).

12. Regarding **claims 5 and 6**, Chritini discloses the system is capable of having network access and also capable of transmit/receive data to/from a networked computer. AAPA discloses a server and client system which operates and communicates through a network (specification page 1, line 25 – page 2, line 6) and a system that can display both images representing real time data and images representing non-real time data such as laboratory results, x-rays, trend data, ventilator loops, etc. by the doctor's selection (specification page 3, lines 5 – 9). It would have been obvious for one of an ordinary skill in the art, at the time the invention was made, to combine AAPA with Chritini system to have networked computer being capable of storing and control execution of code and data representing the non-real-time application programs and the general purpose operating system so that the intended functions can be achieved as desired.

Response to Arguments

13. Applicant's arguments with respect to claims 1 - 8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Thursday 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lilian Vo
Examiner
Art Unit 2195

lv
December 6, 2007


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